Annual Report on the Activities of the Rental Office

January 1-December 31, 2006

Submitted by
Hal Logsdon
Rental Officer

The Residential Tenancies Act

The Rental Office and the appointment of a rental officer came into effect in 1988 with the passage of the *Residential Tenancies Act*. The *Residential Tenancies Act* was intended to provide a more expeditious and less formal dispute resolution mechanism for residential landlords and tenants and was part of a general trend across Canada to establish tribunals to deal with residential tenancy matters. Prior to the passage of the *Residential Tenancies Act* all landlord tenant disputes were heard by the Court. The Rental Office was established to provide easy access to information on landlord and tenant rights and obligations. The *Residential Tenancies Act* gives a rental officer specific powers and duties designed to provide information regarding tenancy matters and to resolve disputes between landlords and tenants who have entered into residential tenancy agreements.

The Role of the Rental Office

- **A Provider of Information to Landlords and Tenants**

  The Rental Office is a convenient place for landlords and tenants to obtain information regarding their rights and obligations under the *Residential Tenancies Act*. Many landlord-tenant problems are solved simply by providing landlords and tenants with information concerning their respective rights and responsibilities. Many tenants and a surprising number of landlords are unaware of the legislation that governs their relationship. The provision of information is probably the single most important function of the office, often serving to eliminate conflict and problems before they start.

  The Rental Office maintains a toll-free telephone number which can be used anywhere in Canada. We receive numerous calls each day seeking information concerning rights and obligations of landlords and tenants and the process for filing applications and resolving disputes.

  The Rental Office also provides written information, including a simple to read booklet outlining the major aspects of the *Residential Tenancies Act*, short fact sheets on selected topics and numerous standard forms, including a tenancy agreement. Like the day-to-day inquiries, the written material helps both landlords and tenants acquire an understanding of mutual rights and responsibilities to help to solve problems before they start.

  The Department of Justice maintains a website for the Rental Office that contains all of the written material as well as a link to the legislation and a searchable database of rental officer decisions.

  The rental officer is also available to make presentations or participate in forums with tenants, property managers or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

- **Dispute Resolution**

Landlords and tenants are encouraged to attempt to resolve disputes themselves. Often, the information provided to the parties regarding their legal rights and obligations helps the parties resolve the dispute but a dispute resolution process is available to both landlords and tenants. The dispute resolution process can be initiated by a landlord or tenant by filing an Application to a Rental Officer.

On the filing of a application, a rental officer may investigate to determine the facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated.

Occasionally, the investigation leads to a resolution of the dispute by agreement. For example, a tenant may file an application when a security deposit has not been returned and no statement of the deposit has been provided to the tenant. A brief investigation into the matter may reveal that the landlord was unaware of the new address of the former tenant or of his responsibility to produce a statement. The production of the statement may lead to agreement between the parties and the withdrawal of the application.

Occasionally, the parties will agree to a mediated solution to the problem without recourse to a formal hearing or the issuance of an order. If the parties wish to try to settle the issue by mediation, a rental officer may assist them in the resolution of the matter and the preparation of a mediated agreement.

Often, landlords and tenants can not agree or, more often, one of the parties wants a decision which can be enforced, should the other party fail to abide by that decision. In these cases, a rental officer will hold a hearing and, after hearing the evidence and testimony of both parties, render a decision. The rental officer will issue a written order along with reasons for the decision. Orders by a rental officer may be filed in the Territorial Court and are deemed to be an order of that court when filed. Most disputes are settled in this manner as the majority of disputes concern non-payment of rent and an enforceable decision is desired by the applicant.

- **Enforcement of the Act**
  The contravention of certain sections of the *Residential Tenancies Act* and certain actions described in the Act are offences. On summary conviction, offenders are liable to a fine. Few choose to ignore the law when informed but occasionally a rental officer is required to investigate allegations of contraventions which could lead to charges being laid.

Rental Office Activities

Mr. Hal Logsdon served as Rental Officer throughout the year. Mr. Logsdon's appointment was renewed for a one year term on April 1, 2006. Ms. Kim Powless continued to serve as the Rental Office Administrator during the year.

Our printed information material and website remained much the same throughout the year, because of the anticipated changes to the *Residential Tenancies Act.* However, the legislative changes did not materialize, so we will probably proceed to add some new material in 2007. The rental officer assisted the Department of Justice on several occasions to outline details of the proposed changes to the Act.

The Rental Officer participated in a workshop on Human Rights and made a presentation on the *Residential Tenancies Act* in conjunction with a course offered by Aurora College.

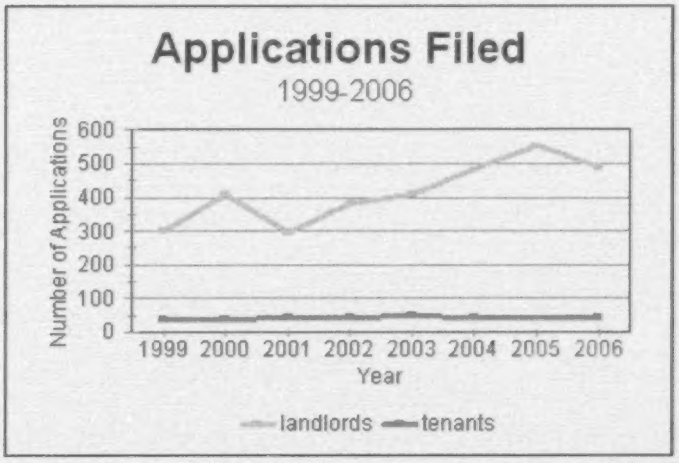
Trends and Issues

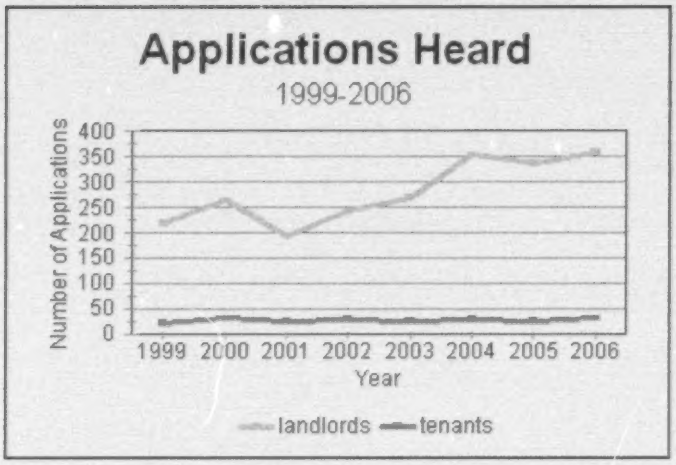
Despite strong production of new apartments, the vacancy rate in Yellowknife remained unchanged and rents increased significantly. Canada Mortgage and Housing Corporation reported an increase of 110 apartments in 2006 or a 5.9% increase in the inventory. This compares with a 73 unit increase (4.1%) for the previous 12 month period.

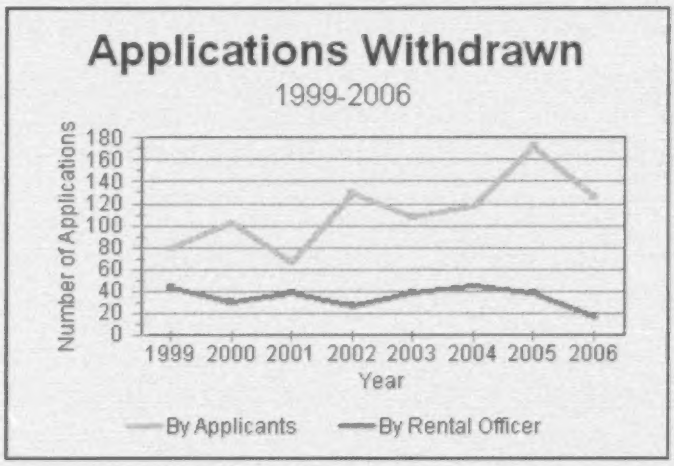
The total vacancy rate leveled off in 2006 at 3.3%, unchanged from the previous year. This follows three years of increasing vacancy rates. The most significant vacancy rate change was among townhouse properties which plummeted from 11.3% in 2005 to 0.9% in 2006.

The average rent increased to $1265/month following a modest rent increase in 2005. The average rent for a one-bedroom apartment increased from $1069 in 2005 to $1122 in 2006. Two-bedroom apartments rents experienced a similar increase to $1365/month. Canada Mortgage and Housing Corporation notes that Yellowknife continues to have the second highest apartment rents among urban centres in Canada, surpassed only by Fort McMurray, Alberta.

Compared to 2005, the total number of applications filed with the Rental Office decreased by 10% in 2006 to 534. This was due in part to a reduction of applications filed seeking termination due to condominium conversions. A large apartment complex was converted to condominiums in 2005 resulting in







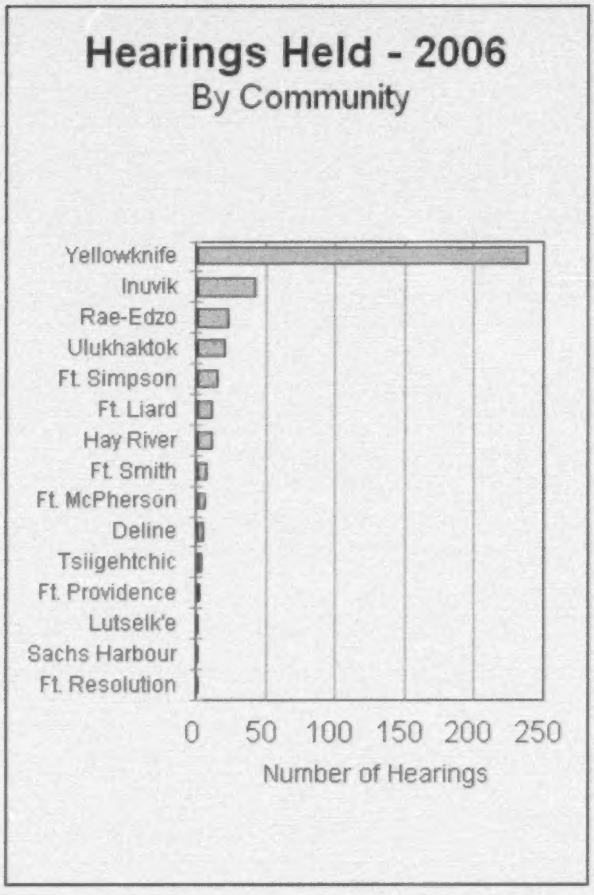
37 applications to terminate tenancy agreements. Only 3 proceeded to hearing, resulting in a sharp increase in the number of applications withdrawn in 2005. The number of applications withdrawn in 2006 returned to pre-2005 levels. Normally applications are withdrawn because the dispute between parties is resolved to the satisfaction of the applicant before a hearing is held or because the applicant fails to serve the application on the respondent.

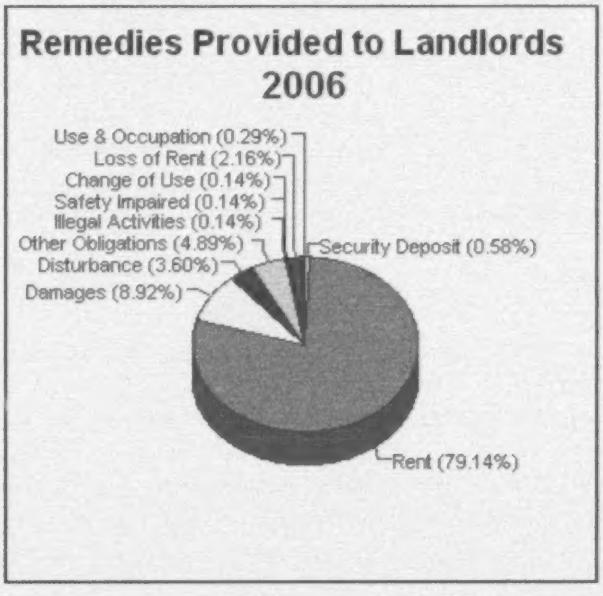
The number of hearings held in 2006 increased by 8% to an all-time high. Of the 390 hearings held across the Northwest Territories in 2006, 92% were based on applications filed by landlords. Only 8% of the hearings were based on tenant applications. Although landlords file the majority of applications, tenants rely on the Rental Office as a source of information and make good use of the toll-free number to make inquiries.

Yellowknife continues to lead all other communities both in terms of applications filed and applications heard. The number of hearings held concerning premises in Yellowknife remained relatively constant at 239 which represents 61% of the total number of hearings held in 2006. Yellowknife is the only community where regular hearing dates are set in advance, approximately every three weeks.

Hearing dates for the remainder of communities are set as required as the number of applications is quite variable. For example, 48 matters were heard in Rae-Edzo in 2005 but only 24 were heard in 2006. No hearings were held in Ulukhaktok in 2005 but 21 were heard in 2006.

Of the hearings held, 300 were conducted in person and 90 were conducted by telephone. No videoconference hearings were held in 2006 due to the unavailability of functioning equipment or trained operators in the communities.





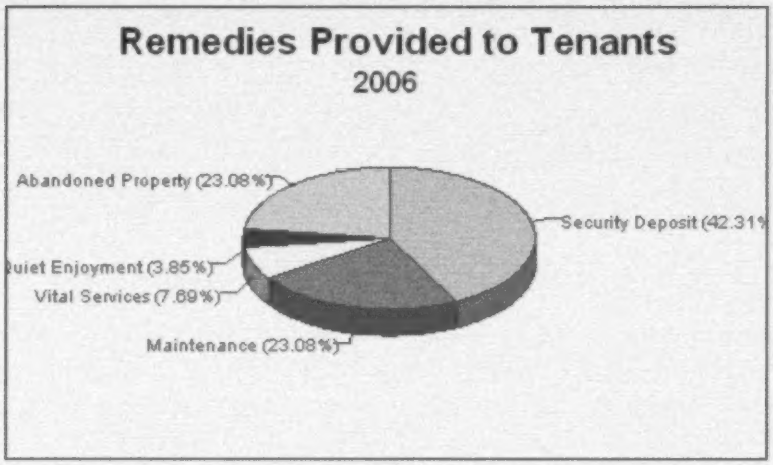
Telephone hearings continue to be an effective way to hear matters in a timely and cost-effective manner, particularly when only one or two applications are received from a community or when the parties reside in different communities.

The majority of applications are filed by landlords due to non-payment of rent. Most of these are uncontested by tenants. In cases where arrears are high, the hearing process often proves useful, permitting the landlord and tenant to work out, with the assistance of a rental officer, a consent order for the scheduled repayment of the debt.

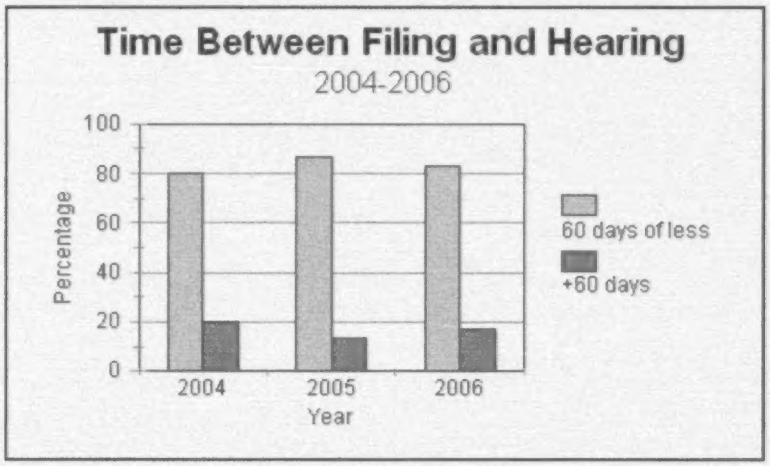
The remedies provided to landlords in 2006 were similar to those granted in the previous year. Not surprisingly, 79% of the orders provided to landlords related to rent and the majority of orders provided to tenants involved disputes related to the return of security deposits.

The total value of monetary orders issued dropped to $978,587 in 2006 and the average value dropped to $2993, a reduction of nearly $1000.

The percentage of terminations ordered decreased in 2006 from 44% to 38% of orders issued. It should be noted however that many of these termination orders were conditional in nature and do not necessarily result in the termination of the tenancy agreement. In many cases involving rent, the order issued will terminate the tenancy agreement unless the tenant pays the rent arrears by a particular date. We have no way of tracking how many orders for termination actually result in a termination of the tenancy agreement but we suspect that most conditional termination orders are satisfied and the tenancy continues.



The length of time it takes from when an application is filed to the time it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible.



For the fourth consecutive year, we continued to hear 80% or more of all applications within 60 days of filing. 33.6% of all applications were heard within 30 days.

It has been our experience that where the filed application is not delayed by mail, the applicant serves the respondent quickly, the hearing notices are deliverable and the parties do not seek any postponements, an application will be heard within 4-6 weeks of filing. However any or all of the above factors can delay the process considerably, and occasionally do.

In April, 2006 the subsidy arrangement for the Public Housing Program was changed, transferring the responsibility for rent calculation from the landlord (the Local Housing Organization) to the Department of Education, Culture and Employment. Prior to April 1, 2006 Public Housing tenants were obligated to report the household income to the landlord and the landlord was obligated to calculate a rent based on the household income in accordance with the Public Housing rent scale. The new Public Housing tenancy agreement now obligates the tenant to report the household income to the Department of Education, Culture and Employment who sets the tenant's rent at the department's discretion.

The change has introduced a third party to Public Housing landlord/tenant relationship who is not a party to the tenancy agreement. The new arrangement has resulted in numerous complaints from tenants regarding the reporting of income and the calculation of rent. Some of these complaints have been determined to be substantive but, unfortunately, they are outside the jurisdiction of the rental officer.

This program change deprives the tenant of any remedy through the *Residential Tenancies Act* involving rent assessment because the Department of Education, Culture and Employment , who sets the rent, is not a party to the tenancy agreement and therefore outside the rental officer's jurisdiction. The rental officer is unable to correct an inaccurate rent assessment or order the Department of Education, Culture and employment to alter or correct an assessment.

The Public Housing landlord no longer has direct knowledge of what income information, if any, has been reported by the tenant . The landlord is dependent on the Department of Education, Culture and Employment to advise them if the tenant has complied with their obligation to report income in accordance with the tenancy agreement. Because this information is often not forthcoming, the landlord is often faced with an evidentiary problem trying to prove that the tenant breached their obligation to provide that information.

Statistics for the Year
January 1, 2006 to December 31, 2006

Applications to a Rental Officer
1999-2006

	1999	2000	2001	2002	2003	2004	2005	2006
Applications Filed	339	448	339	426	457	523	591	534
By Landlords	302	409	295	384	409	481	551	489
By Tenants	37	39	44	42	48	42	40	45
Applications Heard	240	295	221	271	296	383	362	390
From Landlords	218	264	195	242	270	353	336	359
From Tenants	22	31	26	29	26	30	26	31
Applications Withdrawn	122	132	106	157	146	161	210	143
By Applicants	79	102	67	130	108	117	172	126
By Rental Officer	43	30	39	27	38	44	38	17

Hearings Held, by Community and Type
2006

Community	in person	by phone	by video	TOTAL
Yellowknife	239	0	0	239
Inuvik	22	20	0	42
Hay River	0	11	0	11
Fort Providence	0	2	0	2
Fort McPherson	0	6	0	6
Fort Smith	5	3	0	8
Fort Simpson	10	5	0	15
Deline	0	5	0	5
Fort Liard	0	11	0	11
Rae-Edzo	24	0	0	24
Tsiigehtchic	0	3	0	3
Lutselk'e	0	1	0	1
Sachs Harbour	0	1	0	1
Ulukhaktok	0	21	0	21
Fort Resolution	0	1	0	1
TOTAL	300	90	0	390

Remedies Ordered After a Hearing
2005-2006

Landlords	2005	%	2006	%
Rent (Section 41)	497	75%	550	79%
Tenant Damages (Section 42)	42	6%	62	9%
Disturbance (Section 43)	43	6%	25	4%
Other Obligations of Tenant (Section 45)	52	8%	34	5%
Security Deposit (Sections 14 & 18)	8	1%	4	0.6%
Loss of Future Rent (Section 62)	9	1%	15	2%
Termination for Sale or Change of Use (Section 58 & 59)	6	1%	1	0.1%
Compensation for Overholding (Section 67)	1	0.2%	2	0.3%
Termination of Different Types (Section 57)	1	0.2%	0	0%
Illegal Activities (Section 46)	0	0%	1	0.1%
Safety Impaired (Section 54)	0	0%	1	0.1%
Refund of rent on sale of premises (Section 58)	1	0.2%	0	0%
Tenants	**2005**	**%**	**2006**	**%**
Security Deposit (Sections 14 & 18)	14	50%	11	42%
Maintenance (Section 30)	12	43%	6	23%
Disturbance (Section 34)	0	0%	1	4%
Vital Services (Section 33)	0	0%	2	8%
Wrongful sale of Personal Property (Section 66)	1	4%	6	23%
Change of locks (Section 25)	1	4%	0	0%

Terminations Ordered*

1999-2006

	1999	2000	2001	2002	2003	2004	2005	2006
Requested by Tenant	1	1	0	1	0	3	2	2
Requested by Landlord	63	104	89	114	115	158	158	147
As % of Applications Heard	27%	36%	40%	42%	39%	42%	44%	38%

*includes orders which terminate tenancy agreements only if specific conditions are not met.

Value of Compensation Ordered

2002-2006

	2002	2003	2004	2005	2006
Total Orders Granting Monetary Relief	203	238	328	286	327
Total Value of Orders Issued	$385,242	$487,768	$1,298,310	$1,124,994	$978,587
Average Value	$1898	$2049	$3958	$3934	$2993

Elapsed Time Between Filing Date and Hearing Date

Applications Heard During Period

2003-2006

	2003	%	2004	%	2005	%	2006	%
0-30 days	128	43.2%	133	34.7%	146	40.0%	131	33.6%
31-60 days	127	42.9%	173	45.2%	169	46.7%	193	49.5%
61-90 days	15	5.1%	62	16.2%	35	10.0%	45	11.5%
91-120 days	22	7.4%	7	1.8%	3	0.8%	10	2.6%
120+ days	4	1.4%	8	2.1%	9	2.5%	11	2.8%